

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session
Special Meeting

July 30, 2001
8:00 p.m.

Council Chambers
Bellevue, Washington

PRESENT: Mayor Mosher, Deputy Mayor Marshall, Councilmembers Davidson, Degginger, Lee, and Noble

ABSENT: Councilmember Creighton

1. Call to Order

The meeting was called to order at 8:07 p.m. by Mayor Mosher, who presided.

2. Roll Call, Flag Salute

Upon roll call by the City Clerk, all Councilmembers except Mr. Creighton were present. Mr. Degginger led the flag salute.

(a) 24-Hour Relay Challenge Recognition

Helena Stephens, Teen Services Manager, provided a brief report on the third annual 24-Hour Relay Challenge held June 16-17 and introduced the following participants:

Jonathan Lee, Jan Still, Rob Ott, and Ken Wong – Youth and adult relay directors
Sammy Cassidy, Robert Woodeslee – Youth volunteers

Jan Still, Bellevue School Board Member, reviewed the following highlights of the event:

- 17 relay teams for a total of 180 youth and adult participants
- 192 volunteers providing 1,176 program volunteer hours and 576 event volunteer hours
- 350 visitors to the event
- 24 hours of entertainment provided by more than 75 individuals volunteering their time
- \$10,000 in grant contributions were received
- \$40,000 of in-kind donations were provided, and
- 80 business and organizations co-sponsored the event.

Charter sponsors of the event were the City of Bellevue, Bellevue School District, and Bellevue's *It's About Time for Kids* program. Mr. Ott thanked the following individuals for their role in the event:

John Curley, Evening Magazine – Celebrity Co-Chair and host of opening ceremony
King County Councilmember Jane Hague; Bellevue Deputy Mayor Connie Marshall and
Councilmember Conrad Lee – Presided over opening ceremony
Mayor Chuck Mosher and Councilmember Conrad Lee – Officially closed the relay event

Activities during the 24-hour event included a climbing wall sponsored by Mini Mountain, a massage tent sponsored by Bellevue Massage School and the King County Health Department, a game tent sponsored by Cranium Inc., a Community Provider Fair of agencies representing youth and family services, a quilt booth sponsored by Bellevue High School Community Service Center, and award presentations to participants.

Ms. Stephens presented a two-minute video of the event. She noted a list of 80 organizations in the Council packet that contributed in-kind donations and services to the 24-Hour Relay Challenge. Plaques were presented to representatives of these organizations.

3. Communications: Written and Oral

Mayor Mosher noted that Agenda Item 10(a) regarding the rezone application of Cosmos Development and Administration Group is a quasi-judicial matter for the Council and the record has been officially closed. Therefore, Council cannot take public comment on this agenda item unless it solely relates to procedural matters.

- (a) Jan Benson commented on proposed amendments to the City's Traffic Standards Code [Agenda Item 11] that would exempt neighborhood shopping centers from TSC analysis. She encouraged the development of pedestrian-friendly shopping centers and feels the proposed TSC amendments will introduce more traffic to neighborhoods.
- (b) James Eder identified himself as a 40-year Bellevue resident and retired Boeing engineer and Coast Guard officer. He alleged that the proposed TSC amendments violate current laws such as the Growth Management Act and the State Environmental Policy Act. He reminded Councilmembers of their oath of office and their responsibility to act fairly and lawfully.
- (c) Dennis Asheim spoke on behalf of his mother, who lives on 155th Avenue SE, and described the lack of sidewalks in her neighborhood. He said children ride their bikes on this street and he is worried that the proposed TSC amendments will endanger citizens.

4. Reports of Community Councils, Boards and Commissions

Margaret Lowe, Arts Commission Member, noted the Commission Report regarding a performing arts center in the Council packet (Page 4-1). She said the Commission feels it is premature at this time for the Council to endorse any one performing arts center proposal.

However, the Commission encourages the City to continue to move forward and take advantage of the momentum created by the community's support for the new Bellevue Art Museum. Ms. Lowe said the Commission is eager to assist in the development and review of all proposals and options.

Diana Thompson, Human Services Commission Member, thanked Council for \$10,000 allocated in the 2001 budget to provide technical assistance to human services agencies. The agencies have expressed an interest in one-on-one assistance rather than being sent to classes. Ms. Thompson said three or four agencies will be selected to receive technological assistance through an organization specializing in helping nonprofit agencies with the development of information technology. The expected outcome is a three to five year customized technology plan for each agency.

Ms. Thompson said the annual Human Services Needs Update will be presented to Council in early 2002 and a long-range human services plan to address these needs is under development.

5. Report of the City Manager

City Manager Steve Sarkozy asked staff to provide a cable television franchise update. David Kerr, Franchise and Transportation Legal Advisor, said Bellevue currently has two cable television providers: AT&T Broadband and Millennium Digital Media. Western Integrated Networks (WIN) recently submitted a cable television franchise application and is negotiating a franchise agreement with the City.

Mr. Kerr noted that AT&T Broadband has resumed activities to upgrade its network in order to provide full broadband services in Bellevue. The construction schedule anticipates that 20 to 25 percent of the city will be upgraded by the end of this year. This project includes an I-Net agreement with the City to connect 31 municipal sites with fiber optic cable.

Deputy Mayor Marshall thanked staff for the report and for their work with AT&T Broadband. Mr. Kerr and Nora Johnson, Transportation Assistant Director, responded to Councilmembers' questions.

Mr. Sarkozy noted a Management Brief in the Council packet regarding a targeted service delivery pilot project in the East Lake Hills neighborhood addressing code compliance and property maintenance issues. Cheryl Kuhn and Jim Gough, Planning and Community Development staff members, invited Councilmembers to participate in a picnic on August 1 with residents of East Lake Hills.

Moving on, Mr. Sarkozy noted Management Briefs in the packet regarding marine patrol services on Lake Washington and Lake Sammamish and an update on the City's energy conservation program.

Mr. Sarkozy said the Court of Appeals issued a decision today regarding the necessary expense lawsuit involving the City's two Community Councils. The Court of Appeals affirmed the decision of King County Superior Court in favor of the City on the issue of who determines and

budgets for the necessary expenses of the Community Councils. The court ruled that the City has the discretion to make such decisions and that the method currently being used by the City to provide legal and other technical assistance to the Community Councils is lawful and consistent with the intent of the state legislature.

6. Council Business

Deputy Mayor Marshall attended the last meeting of the I-90 Committee, which sent a unanimous recommendation to the Sound Transit Board regarding capacity improvements to the bridge. The Sound Transit Board has since voted to move this recommendation forward for EIS (Environmental Impact Statement) analysis.

Mr. Degginger attended the Growth Management Planning Council (GMPC) meeting, in which the criteria for allocating growth targets for the next ten years was discussed.

Mr. Lee visited the Vietnam Memorial Wall display in Bellevue over the weekend.

Mr. Noble attended a meeting of an Eastside Transportation Partnership (ETP) study group to discuss Sound Transit Phase 2 project planning.

Dr. Davidson attended meetings of the Cascade Water Alliance (CWA) Board and the WRIA (Water Resource Inventory Area) 8 Steering Committee.

Mayor Mosher led a delegation of the Association of Washington Cities to meet with Governor Gary Locke to discuss business and occupation (B&O) taxes.

7. Approval of the Agenda

➡ Mrs. Marshall moved to approve the agenda, and Mr. Noble seconded the motion.

➡ The motion to approve the agenda carried by a vote of 6-0.

8. Consent Calendar

Dr. Davidson requested pulling item 8(d)(2) for discussion. Mr. Noble requested that item 8(i) be pulled for discussion.

➡ Mrs. Marshall moved to approve the Consent Calendar, as amended, and Mr. Lee seconded the motion.

➡ The motion to approve the amended Consent Calendar carried by a vote of 6-0, and the following items were approved:

(a) Minutes of June 25, 2001 Extended Study Session

- (b) Resolution No. 6573 authorizing execution of an interagency agreement with the King County Prosecuting Attorney's Domestic Violence Unit to contract for the services of a domestic violence victim advocate in the amount of \$27,000.
- (c) Motion to reject all bids for Bid No. 0124, installation of traffic signal preemption improvements, and rebid at a later date with revised scope of work. (CIP Plan No. PS-23)
- (d) 140th Avenue Corridor Improvements
 - (1) Motion to increase the budget for CIP Plan No. PW-R-103, 140th Avenue Corridor improvements through cost savings achieved from other identified CIP projects.
- (e) Motion to award Bid No. 0111 to widen the roadway on Richards Road between SE 26th and Lake Hills Connector in the *Bannerwood neighborhood* including bike lanes, sidewalks, and other area improvements in the amount of \$5,401,658.63 to Tydico Inc. as low bidder. (CIP Plan Nos. PW-R-79 and W-16)
- (f) Motion to award Bid No. 0140 for procurement of signal poles for the NE 8th Street and 116th Avenue NE intersection improvements as part of the I-405/Bellevue Downtown Access Project in the amount of \$31,525 to Signal Electric, Inc. as low bidder. (CIP Plan No. PW-I-46)
- (g) Resolution No. 6574 authorizing execution of a lease with VoiceStream Wireless for telecommunications facilities within the right-of-way at 92nd Avenue NE and NE 8th Street. (City will receive annual lease revenue.)
- (h) Resolution No. 6575 authorizing execution of a lease with VoiceStream Wireless for telecommunications facilities within the right-of-way at 4424 123rd Avenue SE. (City will receive annual lease revenue.)
- (j) Resolution No. 6577 authorizing execution of a consultant agreement with W&H Pacific, Inc. to provide engineering services for roadway improvements on Forest Drive from Coal Creek Parkway to SE 63rd Street in the *Somerset/Factoria Community area* in the amount of \$1,065,026. (CIP Plan No. PW-R-128)
- (k) Resolution No. 6578 authorizing execution of a consultant agreement with TranSystems, Inc. to provide engineering services for adding a southbound lane on 148th Avenue SE between SE 24th and SE 28th Streets, in the amount of \$716,821. (CIP Plan No. PW-R-142)
- (l) Motion to approve a change order for the Westwater Construction contract, Bid No. 0118, increasing the contract amount and expanding the project scope to allow work on Stage 2 of the Bellevue Transportation Center Expansion in the amount of \$395,000 for a total contract amount of \$2,084,811.

- (m) Resolution No. 6579 authorizing execution of a renewal of the maintenance agreement with Stripe Rite, Inc. in the amount of \$61,137.82 for citywide annual pavement marking maintenance.

Items for Council discussion:

- (d) 140th Avenue Corridor Improvements
 - (2) Motion to award Bid No. 0120 for construction of a center-turn lane, bike lanes and sidewalks, sound barriers and landscaping along 140th Avenue corridor between NE 8th and SE 8th Streets in the amount of \$5,040,987.00 to R.W. Scott as lowest responsive and responsible bidder. (CIP Plan No. PW-R-103)

- ➡ Dr. Davidson moved to award Bid No. 0120 to R.W. Scott as lowest responsive and responsible bidder, and Mrs. Marshall seconded the motion.

Transportation Director Goran Sparrman explained that Mid-Mountain Construction is the apparent low bidder on the 140th Avenue project. However, staff recommends that Council award this project to R.W. Scott as the lowest responsive and responsible bidder. Mr. Sparrman said this recommendation is based on the Transportation Department's dissatisfaction with Mid-Mountain's quality of performance in previous contracts. Since 1998, the City has worked on three transportation construction projects with Mid-Mountain. Mr. Sparrman described a lack of cooperation and unresponsiveness on the part of the contractor to address problems and claims associated with these three projects. Additional problems experienced with this contractor include failure to follow inspection procedures, disregard for environmental stewardship, damage to a Puget Sound Energy gas line, and various safety concerns.

Noting that all of the bids received for this project exceed the engineer's estimate, Mr. Lee questioned whether all bids could be rejected. Mr. Sparrman said staff analyzed this option and recommends against such a course of action. He said staff and citizens are anxious to complete the project and do not want to delay it to next summer's construction season. Also, since bid information is public, it is unlikely a lower bid would be submitted.

- ➡ The motion to award Bid No. 0120 to R.W. Scott carried by a vote of 6-0.

- (i) Resolution No. 6576 authorizing execution of Supplement No. 1 to the consultant agreement with OTAK to provide additional engineering services to complete the plans, specifications, and estimates for roadway and sidewalk improvements in the *Crossroads Community area* on 156th Avenue from NE 8th Street to Northup Way in the amount of \$76,502, increasing the total amount of the contract to \$428,705. (CIP Plan No. PW-R-107)

Mr. Noble noted that some of the project's design features caused an increase in the project budget, so staff decided to narrow the scope of this project for budgetary purposes. Mr. Noble is concerned that an increase in the project budget is now being requested in order to redesign the

project to accommodate the narrowed scope of work. He observed that the only changes to the project are narrowing the width of the sidewalks and eliminating some of the trees that were to be planted.

Mr. Sparrman offered to provide a full presentation and discussion with Council at the next Council meeting. Mrs. Marshall was in favor of this course of action. Mr. Degginger requested an itemization of the consultant's fees.

There was Council consensus to defer action on this item to the August 6 Council meeting.

9. Public Hearings: None.

10. Land Use

- (a) Ordinance No. 5307 approving the rezone application of Cosmos Development and Administration Corporation to amend the 1989 Concomitant Agreement adopted by Ordinance No. 3755 to allow for redevelopment of the Lake Hills Shopping Center as a Mixed-Use Neighborhood Retail Center.

Mr. Terry recalled Council's priority to revitalize neighborhood shopping centers. He briefly described the rezone application of Cosmos Development and Administration Corporation to amend the 1989 Concomitant Agreement and allow for redevelopment of Lake Hills Shopping Center. He said the Hearing Examiner recommends approval of the rezone application and no appeals have been filed. Mr. Terry said there is substantial, although not universal, community support for the rezone application.

In response to Mr. Noble, Land Use Director Carol Helland advised that since no appeals have been filed, the Council should evaluate the application in light of the Hearing Examiner's recommendation. She said the decision criteria are provided in the Land Use Code and addressed in the Hearing Examiner's report.

In response to Mr. Degginger, Mr. Terry said the master plan will guide development of the site but many details are yet to be designed. The proposed amendments to the concomitant agreement address several items including building height and limitations on specific uses. Mr. Terry said any redevelopment application for the site will be subject to the City's normal design review process, which provides opportunities for public comment.

☞ Mr. Degginger moved to adopt Ordinance No. 5307, and Mr. Noble seconded the motion.

Mr. Noble expressed support for the Hearing Examiner's findings and recommendations. In response to Mr. Lee, Mr. Terry said the rezone application is consistent with the Comprehensive Plan.

☞ The motion to adopt Ordinance No. 5307 carried by a vote of 6-0.

11. Other Ordinances, Resolutions and Motions

(a) Traffic Standards Code

- (1) Ordinance No. 5308 relating to the Traffic Standards Code (TSC) and amending Section 2 (part) of Ordinance No. 4823 and Section 14.10.020I of the Bellevue City Code; creating an additional exemption from the TSC for Neighborhood Shopping Centers which meet specific criteria.
- 2) Ordinance No. 5309 relating to the Traffic Standards Code (TSC) and amending Sections 1, 2 (part) and 5 of Ordinance No. 4823 as amended, respectively, by Sections 2, 3 and 6 of Ordinance No. 5081, and Sections 14.10.010, 14.10.020A, B, and C, and 14.10.050 of the Bellevue City Code; providing for application of the TSC to Process III Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development, and Protected Area Development Exception applications within the community council areas and making minor administrative amendments to insure consistency between the TSC and the Land Use Code.

Laurie Gromala, Transportation Assistant Director, explained that Ordinance No. 5308 will add neighborhood shopping centers to the list of uses exempted from Traffic Standards Code (TSC) analysis. This amendment was proposed in response to the redevelopment proposal submitted for the Lake Hills Shopping Center. This shopping center is located in an area currently out of compliance with the level of service (LOS) standards adopted in the TSC. There was a concern that the redevelopment project would be denied due to the current LOS noncompliance and the projected increase in trips to the center. Ms. Gromala said neighborhood shopping centers are intended to capture neighborhood shopping trips before they impact other neighborhoods or the arterial street system in the city and cause further traffic congestion.

Ms. Gromala said the Transportation Commission held a public hearing on this amendment and recommends approval of the exemption for neighborhood shopping centers. The proposed amendment was discussed at Council's July 9 Extended Study Session.

Ms. Helland said the amendments contained in Ordinance No. 5309 are necessary administrative fixes due to the interrelationship of the Land Use Code and the Traffic Standards Code. In 1997, the City pursued regulatory reform amendments that classified complex projects in Community Council areas such as Conditional Use Permits and Planned Unit Developments as Process III projects. The TSC in effect at that time did not apply to Process III projects. In 1998, the TSC was amended to apply the TSC to Process III applications in Community Council areas. As a result of court rulings upholding the Community Councils' disapproval of those 1998 TSC amendments, the TSC was rendered inapplicable to Process III land use decisions within the Community Council areas.

Ms. Helland said these amendments are important because the Growth Management Act requires that each local jurisdiction have a concurrency ordinance. Bellevue's TSC functions as its concurrency ordinance. As a result of court rulings upholding the Community Councils' disapproval of the 1998 TSC amendments, the TSC is now inapplicable to Process III land use decisions within their jurisdiction.

Ms. Helland said the Transportation Commission held a public hearing on this ordinance and recommended it for Council's consideration.

Noting widespread community support for the Lake Hills Shopping Center redevelopment project, Mr. Lee spoke in favor of the proposed TSC amendments. He said the amendments are not intended to dilute the City's standards regarding traffic impacts. He feels the redevelopment project is consistent with Council's priority to revitalize neighborhood shopping centers.

- ➡ Mr. Lee moved to adopt Ordinance Nos. 5308 and 5309, and Mr. Noble seconded the motion.

Mr. Noble said he has heard substantial community support for the redevelopment of neighborhood shopping centers and particularly the Lake Hills Shopping Center. He said there is no basis for East Bellevue Community Council's assertion that the City Council would be violating the law by adopting these ordinances. He is in favor of maintaining neighborhood shopping centers because they attract pedestrians and allow people to shop close to home, thereby reducing overall traffic congestion.

In response to Mr. Noble, Ms. Helland said both ordinances are written and intended to be effective throughout the city. She said the ordinances do not concede Community Council jurisdiction or authority over the TSC.

Mr. Degginger said if the City does nothing, Lake Hills Shopping Center will be converted by the developer to office space, which is not a use desired by residents. He said the Lakemont Shopping Center created a community gathering place for that neighborhood and he feels the redevelopment of Lake Hills Shopping Center will produce a similar effect.

- ➡ Mrs. Marshall moved to extend the meeting to 11:00 p.m., and Mayor Mosher seconded the motion.
- ➡ The motion to extend the meeting to 11:00 p.m. carried by a vote of 6-0.
- ➡ Mr. Degginger moved, and Mr. Noble seconded the motion, to amend Ordinance No. 5308 by adding the following language:

Whereas, neighborhood concern about the plight of neighborhood shopping centers, especially fears of grocery store closures, led the City Council to prioritize the preservation and enhancement of neighborhood shopping centers to ensure their economic viability and continued provision of necessary goods and services to the immediate neighborhood; and

Whereas, the City responded by offering to partner with neighborhood shopping center owners to undertake urban design studies; and

Whereas, the purpose of the studies was to generate redevelopment options and initiate dialogue among the neighbors, the owners, and the City about the future of the

neighborhood shopping centers and to help the interested parties to reach consensus on a preferred development option; and

Whereas, Cosmos Development and Administration Corporation was the first to partner with the City and that partnership led to the creation of a preferred development option for the Lake Hills Shopping Center; and

Whereas, the City conducted three meetings involving many of the surrounding neighborhood residents to discuss redevelopment options for the Lake Hills Shopping Center; and

Whereas, the preferred redevelopment option was embraced by a majority of neighbors during a public hearing before the City Council.

➡ The motion to amend Ordinance No. 5308 carried by a vote of 6-0.

➡ Mr. Degginger moved, and Mr. Noble seconded the motion, to amend Ordinance No. 5309 by adding the following language:

[Insert as second Whereas clause] - Whereas, the Growth Management Act (GMA) requires all local jurisdictions to adopt and enforce concurrency ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the Transportation Element of the Comprehensive Plan; and

[Insert as third Whereas clause] - Whereas, the Traffic Standards Code is the City of Bellevue's concurrency ordinance; and

[Addition to end of sixth Whereas clause] – contrary to the requirements of the GMA; and

➡ The motion to amend Ordinance No. 5309 carried by a vote of 6-0.

Mayor Mosher said the purpose of neighborhood shopping centers is to improve the traffic situation and provide services in close proximity to residential areas. He feels preserving these centers will help to alleviate citywide traffic congestion.

➡ The motion to adopt Ordinance Nos. 5308 and 5309, as amended, carried by a vote of 6-0.

(b) Resolution No. 6580 authorizing the City Manager to enter into a settlement agreement (Attachment I) with the Coal Creek Utility District (District) settling the District's appeal of the Boundary Review Board's decision approving Bellevue's assumption of that portion of the District lying within Bellevue's corporate borders and a small unincorporated island of Factoria; establishing that

said assumption will occur effective December 31, 2003, and establishing the terms and conditions for an interlocal agreement.

Brad Miyake, Utilities Deputy Director, requested Council approval of Resolution No. 6580, which authorizes a settlement agreement between the Coal Creek Utility District and the City of Bellevue. This agreement will result in dismissal of the District's current lawsuit and establishes an effective date of December 31, 2003, for the City's assumption of the utility district.

➡ Mr. Degginger moved to approve Resolution No. 6580, and Mr. Noble seconded the motion.

➡ The motion to approve Resolution No. 6580 carried by a vote of 6-0.

12. Unfinished Business: None.

13. Continued Oral Communications

(a) Rich Wagner, Baylis Architects, 10801 Main Street, thanked Council and staff for their hard work on the Lake Hills Shopping Center redevelopment project.

14. New business: None.

15. Executive Session: None.

16. Adjournment

At 10:15 p.m., Mayor Mosher declared the meeting adjourned.

Myrna L. Basich
City Clerk

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